

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

CARLOS MILLER,

Plaintiff,

v.

ANDREW M. SAUL,  
Commissioner of Social Security,

Defendant.

Civ. No. 3:16-00688-RJC-DSC

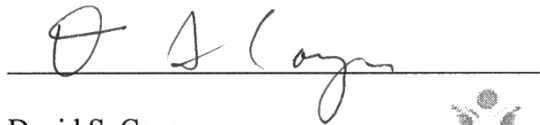
**ORDER**

Plaintiff's counsel has filed a motion for approval of attorney fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), in the amount of \$15,784.00. Attorney fees awarded under 42 U.S.C. § 406(b) may not exceed twenty-five per cent of the claimant's past-due benefits. Plaintiff was previously awarded attorney fees under the Equal Access to Justice Act 28 U.S.C. § 2412, in the amount of \$5,129.55. Defendant filed a response stating that under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

It is therefore ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$15,784.00. Plaintiff's counsel shall refund to Plaintiff the difference between this amount and the fee that previously was received under the EAJA.

**SO ORDERED.**

Signed: March 4, 2021



David S. Cayer  
United States Magistrate Judge

